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September 24, 2019

VIA ECF

Honorable Joan M. Azrack
United States District Court, Eastern District of New York
100 Federal Plaza, Courtroom 920
Central Islip, New York 11722

RE: *KATURIA D'AMATO et al. v. ALFONSE D'AMATO et al.*
Case No. : 2:19-cv-01398 (JMA)(SIL)

Dear Judge Azrack:

We represent defendant, Schlissel, Ostrow & Karabatos, PLLC (“SOK”), in the above matter. We respectfully submit this letter in response to Plaintiff’s letter to the Court, dated September 17, 2019 (Dkt. No. 122).

Plaintiff’s September 17th letter requests a pre-motion conference “to resolve venue and potential recusal issues.” SOK objects to Plaintiff’s requests, for the following reasons.

First, Plaintiff chose to file her complaint in the Eastern District of New York (“EDNY”). Plaintiff should not now be permitted to forum shop simply because she has changed her mind. Moreover, Plaintiff’s amended complaint states that, “[t]he allegations herein arose in Nassau County, New York...”. (Dkt. No. 88, ¶6). Where, as here, Plaintiff’s claims arise out of acts in Plaintiff’s chosen forum, that forum is “customarily a very significant factor” in determining motions for change of venue. *Tralongo v. Shultz Foods, Inc.*, at *4, 2007 WL 844687 (S.D.N.Y., Mar. 14, 2007).

Second, motions for change of venue are governed by 28 U.S.C. §1404(a), which provides that a district court may transfer a civil action to another district or division where it might have been brought, “[f]or the convenience of parties and witnesses [and] in the interest of justice.” Plaintiff is a resident of Nassau County. (Dkt. No. 88, ¶8). SOK is a law firm located in Nassau County (*id.*, ¶39), and most of the other named defendants are residents, employees or businesses in Nassau County. (*Id.*, ¶¶11-39). Because the majority of witnesses, evidence, and the locus of operative facts in this matter are all located within the EDNY, the EDNY is the proper venue, and this matter should remain in the EDNY.

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Third, Plaintiff's application is premature. All pre-trial matters can be handled in the Central Islip federal courthouse. If and when this matter comes before a jury, Plaintiff can make her application for a transfer at that time.

Thank you for your consideration of this letter.

Respectfully submitted,



MARIAN C. RICE

MCR/sr
cc: All Counsel of Record (via ECF)